

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

KUN DUAN, on his own behalf and on behalf )  
of others similarly situated, )

Plaintiff, )

v. )

No. 1:22-cv-02333-RLY-KMB

MX PAN INCORPORATED d/b/a FORMOSA )  
SEAFOOD BUFFET, )

SIU WONG PING a/k/a SIUWONG PING )  
a/k/a PETER PAN, )

MIN XIU DONG a/k/a MINXIU DONG, )  
Defendants. )

**ORDER ADOPTING REPORT AND RECOMMENDATION ON PLAINTIFF'S  
MOTION FOR DEFAULT JUDGMENT**


On January 30, 2025, the Magistrate Judge issued a Report and Recommendation on Plaintiff Kun Duan's Motion for Sanctions and Striking [Defendants'] Answer and Rendering Default, which the Magistrate Judge styled simply as Plaintiff's Motion for Default Judgment. Specifically, the Magistrate Judge recommended that Plaintiff's motion be granted as to Defendant MX Plan Incorporated d/b/a Formosa Seafood Buffet and denied without prejudice as to Defendants Siu Wong Ping a/k/a Siuwong Ping a/k/a Peter Pan and Min Xiu Dong a/k/a Minxiu Dong. The Magistrate Judge also recommended that Defendant Dong be ordered to compensate Plaintiff for his reasonable attorney fees and costs caused by her failure to comply with the court's Order Granting the Motion to Compel, that additional proceedings be set by separate order to review Defendant Ping's legal competency to defend this lawsuit *pro se* in light of his recent

stroke, and that all proceedings against Defendant Ping be stayed until he is ruled competent or until a guardian ad litem is appointed as his legal representative. No objections to the Report and Recommendation have been filed. Accordingly, the court reviews it for clear error. *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

Having reviewed the Report and Recommendation and finding no clear error, the court **ADOPTS** the Magistrate Judge's Report and Recommendation (Filing No. 75). Plaintiff's Motion for Default Judgment (Filing No. 56) is **GRANTED in part** and **DENIED in part**. The Motion is **GRANTED** as to Defendant MX Pan and **DENIED WITHOUT PREJUDICE** as to Defendant Ping and Defendant Dong.

Defendant Dong is **ORDERED** to pay Plaintiff's reasonable attorney fees and costs associated with her failure to comply with the court's Order Granting the Motion to Compel (Filing No. 54). As for Defendant Ping, the court shall set a competency hearing to review his competency to defend this lawsuit *pro se* by separate order. All proceedings against Defendant Ping are **STAYED** until he is ruled competent or a guardian ad litem is appointed as his legal representative.

**SO ORDERED** this 20th day of February 2025.

  
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RICHARD L. YOUNG, JUDGE  
United States District Court  
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email.

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